

SEGAL, ROITMAN & COLEMAN

COUNSELLORS AT LAW  
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SUITE 500  
BOSTON, MASSACHUSETTS 02108

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PAUL F. KELLY  
IRA SILLS  
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SHELLEY B. KROLL  
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PAUL S. HOROVITZ

October 1, 2003

\* Also Admitted to the  
New Hampshire Bar

\*\* Also Admitted to  
the California Bar

BY CERTIFIED MAIL, RETURN RECEIPT  
REQUESTED AND FIRST CLASS MAIL

Jerry Albano  
Baystate Sweeping  
P.O. Box #478  
East Boston, MA 02128

Dear Mr. Albano:

This office represents the Construction Teamsters Health and Welfare Fund for the purposes of obtaining audits and collecting unpaid fringe benefit contributions. We have been advised that Baystate Sweeping has refused to permit the Fund to audit its records. This letter constitutes a demand for an audit.

The employers' obligation to submit to an audit is governed by the Agreement and Declaration of Trust of the Asbestos Workers Local 6 Employee Benefit Funds. Article III, Section 3.2 of the Agreement and Declaration of Trust of the Asbestos Workers Local 6 Annuity Fund, for example, provides in relevant part that "The Trustees, or their authorized representatives, upon reasonable notice, may examine the pertinent payroll and other records of any Employer, including, but not limited to, all quarterly and yearly payroll tax returns, payroll listings, time reports, individual earnings, records and checks, whenever such examination is deemed necessary by the Trustees, or their authorized representatives, in connection with the proper administration of the Trust Fund and to determine that all contributions due have been reported and paid to the Fund." Mr. Viar will notify you, prior to the audit, of the records that he needs to review to conduct this audit.

The right of trustees of employee benefit funds to audit an employer's books and records to determine whether the employer is in compliance with its obligations has been upheld by the United States Supreme Court. See, Central States Southeast and Southwest Areas Pension Fund



v. Central Transport, Inc., 472 U.S. 559 (1985) (trustees of multi-employer employee benefit plans covered by ERISA have power under trust document to examine pertinent records of each employer).

If you have any questions about the audit, or need additional information, please don't hesitate to call.

Very truly yours,

A handwritten signature in black ink, appearing to read "Anne R. Sills". The signature is fluid and cursive, with the first name "Anne" being more prominent than the last name "Sills".

Anne R. Sills

cc: Chris Walsh

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August 5, 2004

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Jerry Albano  
Baystate Sweeping  
P.O. Box #478  
East Boston, MA 02128

Dear Mr. Albano:

This office represents the Construction Teamsters Health and Welfare Fund for the purposes of obtaining audits and collecting unpaid fringe benefit contributions. It is my understanding that auditor Michael Ross has been attempting to conduct an audit of Baystate Sweeping, but has had difficulty obtaining certain relevant and necessary documents. Therefore, this letter constitutes a demand that Baystate turn over the following documents to Mr. Ross:

- Payroll registers and individual earnings records for the period 1/1/2000 - 7/31/2004
- Cash disbursement journals for the period 1/1/2000 - 7/31/2004

As you know, the employers' obligation to submit to an audit is governed by the Agreement and Declaration of Trust of the Asbestos Workers Local 6 Employee Benefit Funds. Article III, Section 3.2 of the Agreement and Declaration of Trust of the Asbestos Workers Local 6 Annuity Fund, for example, provides in relevant part that "The Trustees, or their authorized representatives, upon reasonable notice, may examine the pertinent payroll and other records of any Employer, including, but not limited to, all quarterly and yearly payroll tax returns, payroll listings, time reports, individual earnings, records and checks, whenever such examination is deemed necessary by the Trustees, or their authorized representatives, in connection with the proper administration of the Trust Fund and to determine that all contributions due have been reported and paid to the Fund."

The right of trustees of employee benefit funds to audit an employer's books and records to determine whether the employer is in compliance with its obligations has been upheld by the United States Supreme Court. See, Central States Southeast and Southwest Areas Pension Fund v. Central Transport, Inc., 472 U.S. 559 (1985) (trustees of multi-employer employee benefit plans covered by ERISA have power under trust document to examine pertinent records of each employer).

Your failure to fully cooperate with this request will result in litigation, in which case Baystate Sweeping will be liable for statutory interest, liquidated damages, fees, and costs. If you have any questions about the audit, or need additional information, please don't hesitate to call.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gregory A. Geiman". The signature is fluid and cursive, with a large initial "G" and a long, sweeping tail.

Gregory A. Geiman

cc: Chris Walsh  
Michael Ross

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